

THE STUDENT BODY SUPREME COURT OF INDIANA UNIVERSITY

Reform v. IUSA Election Commission

Docket Number: SBSC-18-01 (2018)

Before SOLOMON, Chief Justice, and KAIL, HAXEL, HAYMOND, YOON, GOWDA,
HARRINGTON, LAHEY, BROWNE, and NEED, Associate Justices.

Preliminary Decision 18-01

Associate Justices HAYMOND, LAHEY, YOON, KAIL, GOWDA, HAXEL, and HARRINGTON, delivered the preliminary decision of the Court. Justice BROWNE concurs in Section I and dissents in Section II. Chief Justice SOLOMON and Justice NEED concur in part and dissent in part.

I.

The Election Commission's decision to not enforce its own rule in Title V Section 501 of the Procedural Election Code is "clear error" and Voice should have been given a ten percent (10%) vote deduction on two counts. These include its failure to include itemized receipts and failure to include seven emails. The Court determines that Voice IUSA violated Section 404 of the IUSA Procedural Election Code which states, "Documentation of contributions must include an itemized list of all contributions, the name and email address of the contributor, date of contribution, and the name of the ticket member responsible for collecting the contribution." Voice IUSA did not include email documentation for seven line items of contributions on its final financial statement. Section 509 of the IUSA Procedural Election Code states, "A violation of financial disclosures results in a base deduction of five (5) percent." For this violation, **the court thus assesses Voice IUSA a vote deduction in addition to the previous vote deduction. This initial penalty was assessed by the Election Commission in "Election Commission Independent Enforcement Power."** Failure to document emails violates one aspect of Section 404; failure to list date of contribution violates another aspect. However, the Court finds these seven omissions constitute one violation, not seven separate ones. The email violations are of the same single nature: they violate the same section, are missing for the same reason, and were submitted simultaneously on a single financial statement. This is consistent with the Election Commission's decision in 2017 on Complaint Ten in which Focus for IUSA did not provide a telephone number or physical address on any of its purchases but it was given a single vote deduction.

II.

The court finds this violation clear and convincing, but it will not apply an "augmented penalty of twice the base violation" of five percent (5%). Article IV, Section 2 of the IUSA Constitution grants the Supreme Court the power of judicial review to protect due process. Title V of the Procedural Election Code 501 is an arbitrary action that violates due process because it gives unequal penalties to different

tickets for the same offense. **Therefore, the Court strikes down Title V of the Procedural Election Code 501.**

Accordingly, the Court reverses the Election Commission decision, “Election Commission Independent Enforcement Power” which assessed an initial ten percent (10%) vote deduction to Voice IUSA for failure to include itemized receipts and no deduction for not including seven emails. It shall henceforth be five percent (5%) with only a “clear and convincing” evidentiary standard. **Voice is thus deducted five percent for failure to include itemized receipts and an additional five percent for failure to include the seven emails.**

The Student Body Supreme Court of Indiana University hereby OVERRULES the IUSA Election Commission’s decisions on 2 April 2018 to not deduct Voice IUSA five percent (5%) on the email violation and to deduct Voice IUSA ten percent (10%) on the itemized receipts violation.

It is so ordered.

Chief Justice Solomon and Justices Need, Haxel, Gowda, Kail, Lahey, Harrington, Yoon, and Haymond join in this decision.